

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-SEVENTH LEGISLATURE

---

**THIRTY-THIRD LEGISLATIVE DAY  
FRIDAY, FEBRUARY 13, 2004**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 11 a.m.

Roll call showed all members present except Senators Bunderson, Cameron, Gannon, Ingram, Keough, Noble, and Richardson, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Angela Dreher, Page.

The Senate advanced to the Third Order of Business.

### **Reading and Correction of the Journal**

Senators Keough and Richardson were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 12, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### **Petitions, Resolutions, and Memorials**

**SJM 107**

#### **BY TRANSPORTATION COMMITTEE**

##### **A JOINT MEMORIAL**

TO THE UNITED STATES SECRETARY OF AGRICULTURE,  
THE UNITED STATES SECRETARY OF THE INTERIOR, THE  
SENATE AND HOUSE OF REPRESENTATIVES OF THE  
UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE  
CONGRESSIONAL DELEGATION REPRESENTING THE  
STATE OF IDAHO IN THE CONGRESS OF THE UNITED  
STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, ground and road access to the Idaho backcountry is very limited and the Idaho backcountry airstrip system provides remote access for tourism, recreation, mail and supply delivery, fire suppression, law enforcement, military training, search and rescue, medical evacuation, disaster response and in-flight emergencies; and

WHEREAS, backcountry aircraft landing strips enable people who are otherwise physically unable, or who are constrained by time or finances, to access remote areas and to enjoy the outdoor opportunities Idaho has to offer; and

WHEREAS, the Idaho backcountry airstrip system is unique and is an important asset to Idaho because it creates jobs and economic enhancements by drawing tourism and recreational visitors from all fifty states and numerous foreign countries; and

WHEREAS, forty-five of the sixty-two Idaho backcountry public use airstrips are located on lands managed by the federal government; and

WHEREAS, the federal Central Idaho Wilderness Act of 1980, Public Law 96-312, allows continued use of airstrips which were in use prior to the wilderness designation and does not allow the closure of such airstrips without the express written concurrence of the state of Idaho; and

WHEREAS, the state of Idaho has issued a notice that it is appealing the decision of the Forest Supervisors of the Bitterroot, Nez Perce, Payette and Salmon-Challis National Forests to select a management alternative which renders four airstrips unserviceable and closes yet another airstrip; and

WHEREAS, the federal government continues to act in such a way as to establish a disturbing trend that is circumventing federal law and is effectively closing airstrips or is denying access to many airstrips for use by the general public; and

WHEREAS, one method being used by the federal government to deny access to backcountry airstrips located on federally-managed lands lying both within and outside of wilderness areas is to change designation of the airstrip from "public use" to "private use" or "emergency use only," thereby sharply curtailing or eliminating general use of these airstrips and forcing air traffic to be concentrated at other airstrips; and

WHEREAS, in concentrating air traffic and increasing use at fewer airstrips, the federal government is not only limiting access of specific outdoor areas, but the federal government's stated objective is to assess use limits at public airstrips and require a special use permit; and

WHEREAS, another method used by the federal government to close existing airstrips is to purchase land containing an airstrip and have the previous private owner remove airstrip designation from the description of the property prior to the sale so that when ownership of the land transfers to the federal government, no airstrip transfers with the title; and

WHEREAS, many of these existing backcountry airstrips which were privately owned and open to general public use and provided access to recreational areas are no longer available because the federal government is implementing its stated standard of not converting any newly-acquired private airstrips to public use airstrip facilities; and

WHEREAS, yet another method being used by the federal government to effectively close airstrips is to intentionally omit certain airstrips from published, official airport identification locator maps and wilderness maps.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urgently request the Congress of the United States to preserve access to, and the historic use of backcountry airstrips by introducing into Congress legislation which will preserve backcountry landing strips on currently-owned federal lands and any future federal acquisition of lands.

BE IT FURTHER RESOLVED that to ensure the greatest amount of public access to public recreational lands, the Congress of the United States is strongly urged to designate as "public use" all nonmilitary aircraft landing areas located on federally-managed lands.

BE IT FURTHER RESOLVED that to further ensure the greatest amount of public access to public recreational lands, the Congress of the United States is strongly urged to limit the ability of the federal government to place use limits or require special use permits for using any backcountry airstrip.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the United States Secretary of Agriculture, the United States Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

**SJM 107** was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

#### **Reports of Standing Committees**

Senators Bunderson, Cameron, Gannon, Ingram, and Noble were recorded present at this order of business.

February 13, 2004

The JUDICIARY AND RULES Committee reports that **S 1302, S 1303, S 1304, S 1305, S 1306, S 1307**, and **SCR 123** have been correctly printed.

DARRINGTON, Chairman

**S 1302, S 1303**, and **S 1304** were referred to the Judiciary and Rules Committee.

**S 1305** and **S 1306** were referred to the State Affairs Committee.

**S 1307** was referred to the Local Government and Taxation Committee.

**SCR 123** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 13, 2004

The HEALTH AND WELFARE Committee reports out **S 1279** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BRANDT, Chairman

There being no objection, **S 1279** was referred to the Fourteenth Order of Business, General Calendar.

February 13, 2004

The HEALTH AND WELFARE Committee reports out **S 1278, H 551**, and **H 553** with the recommendation that they do pass.

BRANDT, Chairman

**S 1278, H 551**, and **H 553** were filed for second reading.

February 12, 2004

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Brad Little to the Idaho Endowment Fund Investment Board, term to expire April 11, 2007;

William W. Deal to the Idaho Endowment Fund Investment Board, term to expire April 11, 2007;

Dr. Rick Miller to the Idaho Endowment Fund Investment Board, term to expire April 11, 2004;

M. Dean Buffington to the Idaho Endowment Fund Investment Board, term to expire April 11, 2007.

ANDREASON, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 12, 2004

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Mary Hartung as Director of the Department of Insurance, term to expire January 4, 2007.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

February 12, 2004

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Bruce Sweeney of Lewiston, Idaho, was appointed as a member of the Idaho Transportation Board to serve a term commencing January 31, 2004, and expiring January 31, 2010.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Transportation Committee.

The Senate advanced to the Ninth Order of Business.

### Messages from the House

February 12, 2004

Mr. President:

I transmit herewith Enrolled **H 566** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 566** and ordered it returned to the House.

February 12, 2004

Mr. President:

I return herewith Enrolled **S 1239** which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1239** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

On request by Senator Stegner, granted by unanimous consent, the Gubernatorial appointment of Jay F. Kunze and **SCR 122** retained their place on the calendar for one legislative day.

The President Pro Tempore announced that **SJM 106** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Goedde, seconded by Senator Malepeai, **SJM 106** was adopted by voice vote, title was approved, and the memorial ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

#### S 1308

#### BY EDUCATION COMMITTEE

#### AN ACT

RELATING TO KINDERGARTEN ATTENDANCE; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002H, IDAHO CODE, TO PROVIDE FULL-TIME KINDERGARTEN ATTENDANCE FOR SPECIFIC STUDENTS AND PROVIDING FOR INCLUSION IN THE KINDERGARTEN ATTENDANCE FACTOR.

#### S 1309

#### BY EDUCATION COMMITTEE

#### AN ACT

RELATING TO PUBLIC CONTRACTS; AMENDING SECTION 18-1359, IDAHO CODE, TO PROHIBIT PUBLIC SERVANTS FROM ENGAGING IN CERTAIN ACTS AND TO SPECIFY THE PENALTIES FOR VIOLATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-210, IDAHO CODE, TO PROHIBIT PUBLIC OFFICERS FROM ENGAGING IN CERTAIN ACTS AND TO SPECIFY THE PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 59-208, IDAHO CODE, TO CLARIFY THAT DESIGNATED PENALTIES APPLY UNLESS OTHERWISE PROVIDED.

#### S 1310

#### BY EDUCATION COMMITTEE

#### AN ACT

RELATING TO CHARTER SCHOOLS; AMENDING SECTION 33-5210, IDAHO CODE, TO CLARIFY APPLICATION OF FINANCIAL REPORTING REQUIREMENTS TO CHARTER SCHOOLS.

**S 1311**  
**BY TRANSPORTATION COMMITTEE**  
 AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 15, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1513, IDAHO CODE, TO CREATE THE PUPIL TRANSPORTATION SUPPORT PROGRAM FUND, TO PROVIDE MONEYS FOR THE FUND AND TO PROVIDE FOR USE OF THE MONEYS; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE A CODE REFERENCE TO PROGRAM FEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-402C, IDAHO CODE, TO PROVIDE AN EXCEPTION TO VEHICLE WEIGHT LIMITATIONS FOR SPECIAL LICENSE PLATE PROGRAMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-419D, IDAHO CODE, TO ESTABLISH THE IDAHO SCHOOL TRANSPORTATION SAFETY AWARENESS LICENSE PLATE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

**S 1312**  
**BY AGRICULTURAL AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO THE IDAHO BEEF COUNCIL; AMENDING SECTION 25-2901, IDAHO CODE, TO INCREASE THE SIZE OF THE COUNCIL AND SPECIFY MEMBERSHIP QUALIFICATIONS; AMENDING SECTION 25-2903, IDAHO CODE, TO PROVIDE TERM LIMITS FOR MEMBERS OF THE COUNCIL; AMENDING SECTION 25-2906, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF THE COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-2907, IDAHO CODE, TO INCREASE THE ASSESSMENT UNDER TERMS SPECIFIED, TO PROVIDE A PARTIAL REFUND UPON REQUEST AND TO AUTHORIZE AN INCREASE OR DECREASE IN THE ASSESSMENT.

**S 1313**  
**BY AGRICULTURAL AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO BONDED WAREHOUSES; AMENDING CHAPTER 2, TITLE 69, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 69-213A, IDAHO CODE, TO PROVIDE FOR ANNUAL NOTIFICATION BY EVERY LICENSED WAREHOUSEMAN TO EACH INDIVIDUAL HAVING AN INTEREST IN ANY AGRICULTURAL COMMODITY STORED IN THEIR WAREHOUSE OR HAVING AN INTEREST IN ANY OPEN CREDIT SALES CONTRACT RELATED TO AN AGRICULTURAL COMMODITY WITH THE WAREHOUSEMAN FOR THE PURPOSE OF CONFIRMING SUCH INTEREST AND TO PROVIDE REQUIREMENTS RELATING TO THE NOTIFICATION.

**S 1314**  
**BY AGRICULTURAL AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO VETERINARIANS; AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 54-2104, IDAHO CODE, TO PROVIDE THAT PERSONS CONDUCTING CERTAIN BULL SEMEN EVALUATIONS ARE NOT REQUIRED TO BE LICENSED

VETERINARIANS OR HOLDERS OF VALID TEMPORARY PERMITS ISSUED BY THE STATE BOARD OF VETERINARY MEDICINE.

**S 1315**  
**BY AGRICULTURAL AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO FEED FOR RUMINANTS AND HORSES; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 25, IDAHO CODE, TO PROHIBIT THE USE OF ANIMAL BYPRODUCTS IN THE FORMULATION OF FEED FOR RUMINANTS AND HORSES, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO ADMINISTER CERTAIN PROVISIONS AND TO PROMULGATE RULES, TO PROVIDE FOR CERTAIN INSPECTION, SAMPLING AND ANALYSIS, TO PROVIDE FOR CONDEMNATION AND CONFISCATION, TO PROVIDE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR PROSECUTION, TO PROVIDE FOR INJUNCTIONS AND TO PROVIDE FOR THE DIRECTOR'S COOPERATION WITH OTHER ENTITIES.

**S 1308, S 1309, S 1310, S 1311, S 1312, S 1313, S 1314, and S 1315** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**H 477, H 478, H 479, and H 481**, by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

**S 1244, S 1245, S 1246, S 1247, S 1248, S 1249, S 1250, and S 1251**, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

**S 1252, S 1265, and S 1282**, by State Affairs Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

**S 1210** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

On request by Senator Lodge, granted by unanimous consent, the following typographical correction was made to **S 1210**, pursuant to Senate Rule 9(F):

On page 1, line 16, of the bill; change the word "State's" in both places that it occurs to: "States".

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis (Davis), Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Gannon. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1210** passed, title was approved as corrected, and the bill ordered transmitted to the House.

Senator Gannon was recorded present at this order of business.

**H 510** was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Little and Stennett arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis (Davis), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--Schroeder. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 510** passed, title was approved, and the bill ordered returned to the House.

**S 1283** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to the provisions of Joint Rule 18, Senator Goedde challenged the sufficiency of the fiscal note accompanying **S 1283**.

The President Pro Tempore ruled that, pursuant to Joint Rule 18, the committee to which the bill was assigned had properly reviewed the fiscal note attached to **S 1283** and deemed it sufficient. The challenge was overruled.

Senator Goedde moved, seconded by Senator Calabretta, that **S 1283** be recommitted to the State Affairs Committee for reconsideration of the sufficiency of the fiscal note.

Roll call vote was requested by Senators Bailey, Brandt, and Calabretta..

The question being, "Shall **S 1283** be recommitted to the State Affairs Committee?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Burkett, Calabretta, Compton, Goedde. Total - 6.

NAYS--Andreason, Bunderson, Burtenshaw, Cameron, Darrington, Davis (Davis), Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 29.

Total - 35.

The President Pro Tempore declared that the motion did not prevail.

Senator Compton requested unanimous consent that **S 1283** be referred to the Fourteenth Order of Business for amendment.

Senator Stegner objected.

Senator Compton moved, seconded by Senator Calabretta, that **S 1283** be referred to the Fourteenth Order of Business, for amendment. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Compton, Calabretta, and Brandt.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Calabretta, Compton, Goedde, Little, Lodge, Malepeai, McKenzie, McWilliams, Pearce, Schroeder, Sorensen, Stennett, Sweet, Werk. Total - 17.

NAYS--Bunderson, Burkett, Burtenshaw, Cameron, Darrington, Davis (Davis), Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Marley, Noble, Noh, Richardson, Stegner, Williams. Total - 18.

Total - 35.

The President Pro Tempore declared that the motion did not prevail. The question being, "Shall **S 1283** pass?"

Call of the Senate was requested by Senators Cameron, Calabretta, and Kennedy.

Whereupon the President Pro Tempore ordered the doorkeepers to lock the doors permitting no Senator to leave the Senate Chamber. The Sergeant at Arms was instructed to find and present any absent members to the Senate.

Roll call showed all members present except Senator Bunderson.

The President Pro Tempore directed the Sergeant at Arms to find and present Senator Bunderson to the Senate.

Senator Bunderson was recorded present.

On request by Senator Cameron, granted by unanimous consent, the Call was lifted.

The question being, "Shall **S 1283** pass the Senate?"

Roll call resulted as follows:

AYES--Andreason, Bunderson, Burkett, Burtenshaw, Cameron, Darrington, Davis (Davis), Gannon, Geddes, Hill, Kennedy, Little, Lodge, Malepeai, Marley, Noble, Noh, Richardson, Schroeder, Stegner, Stennett, Williams. Total - 22.

NAYS--Bailey, Brandt, Calabretta, Compton, Goedde, Ingram, Keough, McKenzie, McWilliams, Pearce, Sorensen, Sweet, Werk. Total - 13.

Total - 35.

Whereupon the President Pro Tempore declared **S 1283** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 2:25 p.m. until the hour of 10:15 a.m., Monday, February 16, 2004.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary